

SUBCHAPTER CC. ADVISORY COMMITTEES
28 TAC §1.2828

1. INTRODUCTION. The commissioner of insurance (commissioner) adopts new 28 TAC §1.2828, relating to the Texas Department of Insurance's (department's) advisory committees. Section 1.2828 is adopted without substantive changes to the proposed text published in the March 2, 2012, issue of the *Texas Register* (37 TexReg 1464).

2. REASONED JUSTIFICATION. The new section is necessary to address the administration of the department's advisory committees. Sections 32.151 and 32.152 of the Insurance Code require the commissioner to adopt rules regarding the department's advisory committees.

3. HOW THE SECTION WILL FUNCTION. The new section provides for procedures relating to the department's advisory committees. The new section sets out the purpose, structure, and use of advisory committees, and establishes a process by which the department will periodically evaluate an advisory committee to ensure its continued necessity. The new section will be consistent with Chapter 2110 of the Government Code.

4. SUMMARY OF COMMENTS AND AGENCY RESPONSE. The department did not receive any comments on the published proposal.

5. STATUTORY AUTHORITY. The new section is adopted under the Government Code Chapter 2110 and the Insurance Code §§32.151, 32.152, and 36.001. Chapter 2110 of the Government Code deals with state agency advisory committees.

Sections 32.151 and 32.152 of the Insurance Code provide that the commissioner shall adopt rules regarding the purpose, structure, and use of advisory committees as well as a process by which the department shall evaluate an advisory committee to ensure its continued necessity.

Section 36.001 of the Insurance Code provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

6. TEXT.

§1.2828. Advisory Committees.

(a) The department may create advisory committees as it deems necessary in accordance with Government Code Chapter 2110 to assist, advise, and provide expertise to the department, or as required by statute. Committees are not responsible for rulemaking or policymaking.

(b) The following provisions apply to an advisory committee established by the department, unless different requirements are imposed by statute:

(1) Role and responsibility.

(A) An advisory committee will review department issues and provide advice to the department.

(B) An advisory committee may make recommendations to the department.

(2) Composition.

(A) The commissioner or the commissioner's designee may appoint one or more department staff in a non-member position to assist each advisory committee. Such non-member positions are non-voting.

(B) The commissioner or the commissioner's designee will appoint a reasonable number of members, not to exceed 24, to each advisory committee.

(C) An advisory committee will be composed of members from diverse geographical areas who have demonstrated expertise in the area of the particular advisory committee.

(D) The committee must select from among its members a presiding officer who presides over the advisory committee, establishes meeting agendas, and reports to the department.

(3) Membership.

(A) Members will be appointed for terms not to exceed four years. The commissioner or the commissioner's designee may appoint members for staggered terms. Members may serve after expiration of their term until the commissioner or the commissioner's designee appoints a replacement.

(B) If a vacancy occurs, the commissioner or the commissioner's designee will appoint a qualified replacement to serve the unexpired portion of that term.

(C) Membership is voluntary.

(D) Members serve on an advisory committee without compensation. Travel reimbursement and per diem expenses incurred in performing official duties of membership will be permitted only if authorized by the Legislature in the General Appropriations Act or through the budget execution process under the Government Code Chapter 317 if the advisory committee is created after it is practicable to address the existence of the committee in the General Appropriations Act.

(4) Meetings.

(A) An advisory committee must meet at least quarterly unless otherwise directed by the commissioner or designee.

(B) A meeting of the advisory committee may be called by the presiding officer, the commissioner, or the commissioner's designee.

(C) A simple majority of advisory committee members will constitute a quorum. An advisory committee may transact official business only when a quorum is present.

(D) An advisory committee must comply with the Open Meetings Act, Government Code Chapter 551.

(5) Training.

(A) Each member of an advisory committee must receive training regarding the Open Meetings Act.

(B) Each member of an advisory committee must receive training as to the department's mission, organizational structure, and goals.

(C) Each member of an advisory committee must receive training necessary to perform his or her official duties as a committee member.

(6) Evaluation.

(A) An advisory committee will regularly report to the commissioner or designee its recommendations.

(B) When requested by the commissioner or the commissioner's designee, an advisory committee must file a report with the department containing:

(i) the minutes of all meetings;

(ii) an executive summary including details as to the committee's work and usefulness; and

(iii) a list of recommendations.

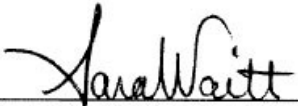
(7) Duration.

(A) Unless an abolishment date is set by rule, an advisory committee will operate as long as the commissioner or the commissioner's designee deems necessary based on an annual evaluation of the need and usefulness of each committee.

(B) If an abolishment date for a committee is set by rule, the committee will be abolished on its abolishment date.

CERTIFICATION. This agency certifies that the adopted section has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.


Issued at Austin, Texas, on April 23, 2012.


Sara Waitt, General Counsel
Texas Department of Insurance

IT IS THE ORDER of the commissioner of insurance that new 28 TAC §1.2828 concerning the department's advisory committees is adopted.

12-0418
TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 1. General Administration

Adopted Section
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ELEANOR KITZMAN
COMMISSIONER OF INSURANCE

Attest:

Sara Waitt, General Counsel
Texas Department of Insurance

COMMISSIONER'S ORDER NO. 12-0418